

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**CELLULAR COMMUNICATIONS
EQUIPMENT LLC,**

Plaintiff,

v.

ZTE CORPORATION, ET AL.,

Defendants.

Civil Action No. 3:17-cv-2805

JURY TRIAL DEMANDED

**JOINT MOTION TO SEVER AND STAY
CLAIMS AGAINST THE CARRIER DEFENDANTS**

Plaintiff Cellular Communications Equipment LLC (“CCE”) and Defendants AT&T Mobility LLC, Verizon Communications Inc., Cellco Partnership d/b/a Verizon Wireless, Sprint Solutions, Inc., Sprint Spectrum L.P., Boost Mobile, LLC, T-Mobile USA, Inc., and T-Mobile US, Inc. (collectively, the “Carrier Defendants”) move jointly to sever and stay CCE’s claims against the Carrier Defendants in Civil Action No. 3:17-cv-2805 (the “2805 Action”) so that CCE can proceed on its claims against ZTE (USA), Inc. (“ZTE”). ZTE does not oppose this motion.

Good cause exists for severing and staying CCE’s claims against the Carrier Defendants. The adjudication of CCE’s claims against ZTE would likely dispose of or resolve the major issues concerning CCE’s claims against the Carrier Defendants. *See Spread Spectrum Screening LLC v. Eastman Kodak Co.*, 657 F.3d 1349, 1358 (Fed. Cir. 2011) (recognizing that “the manufacturer’s case need only have the potential to resolve the ‘major issues’ concerning the claims against the customer—not every issue—in order to justify a stay of the customer suits.”). Indeed, if CCE proceeds to trial against ZTE, the Carrier Defendants have agreed to be bound on

the issues of invalidity and infringement consistent with the Court’s ruling in *Cellular Communications Equipment LLC v. Apple Inc., et al.*, Case No. 6:14-cv-251 (E.D. Tex.), which states that “the Carriers have agreed to be bound by the invalidity and infringement rulings in this case as to [the manufacturer].” *Cellular Commc’ns Equip. LLC v. Apple Inc., et al.*, Case No. 6:14-cv-251, Slip op. (Dkt. No. 245) at 6 (E.D. Tex. Aug. 26, 2016). Severing and staying CCE’s claims against the Carrier Defendants would therefore facilitate the convenient, efficient, and less expensive determination of the 2805 Action.

Courts have routinely granted similar joint requests to sever and stay in a number of other cases involving CCE and the Carrier Defendants. *See, e.g., Cellular Commc’ns Equip. LLC v. HTC Corp.*, Case No. 6:16-cv-475, Dkt. No. 109 (E.D. Tex. May 3, 2017); *Cellular Commc’ns Equip. LLC v. Apple Inc.*, Case No. 6:14-cv-251, Dkt. No. 245 (E.D. Tex. August 26, 2016). And the parties to this motion believe that the same result should hold here.

Accordingly, for the forgoing reasons, the parties to this joint motion submit that good cause exists for severing and staying CCE’s claims against the Carrier Defendants in the 2805 Action. Doing so will allow the parties to resolve CCE’s claims in the most efficient way possible. A Proposed Order is submitted with this Joint Motion for the Court’s consideration and entry.

Dated: March 2, 2018

Stipulated and Agreed,

<u>/s/ Edward R. Nelson III</u> Edward R. Nelson III ed@nelbum.com Texas State Bar No. 00797142 Ryan P. Griffin ryan@nelbum.com Texas State Bar No. 24053687 Thomas C. Cecil	<u>/s/ Nicole S. Cunningham</u> Nicole S. Cunningham CA State Bar No. 234390 Steve A. Moore CA State Bar No. 232114 PILLSBURY WINTHROP SHAW PITTMAN LLP 501 West Broadway, Suite 1100
---	--

<p>tom@nelbum.com Texas State Bar No. 24069489 NELSON BUMGARDNER PC 3131 West 7th Street, Suite 300 Fort Worth, Texas 76107 Phone: (817) 377-9111 Fax: (817) 377-3485</p> <p>ATTORNEYS FOR CELLULAR COMMUNICATIONS EQUIPMENT LLC</p>	<p>San Diego, California 92101 (619) 544-3119 (619) 236-1995 (fax) Nicole.Cunningham@PillsburyLaw.com Steve.Moore@PillsburyLaw.com</p> <p>ATTORNEYS FOR AT&T MOBILITY LLC</p>
<p><u>/s/ Chris Patton</u> Chris Patton Texas Bar No. 24083634 LYNN PINKER COX & HURST, LLP 2100 Ross Ave., Ste. 2700 Dallas, TX 75201 T: (214) 292-3631 F: (214) 981-3838 cpatton@lynllp.com</p> <p>Douglas J. Dixon (Pro Hac Vice) HUESTON HENNIGAN LLP 620 Newport Center Dr., Suite 1300 Newport Beach, CA 92660 Telephone: (949) 226-6741 DDixon@hueston.com</p> <p>ATTORNEYS FOR T-MOBILE USA, INC. AND T-MOBILE US, INC.</p>	<p><u>/s/ Shaun W. Hassett</u> Mark W. McGrory ERISE IP, P.A. 7015 College Blvd, Suite 700 Overland Park, KS 66211 Phone: (913) 777-5600 Fax: (913) 777-5601 mark.mcgrory@eriseip.com</p> <p>Shaun W. Hassett Texas Bar No. 24074372 McGuireWoods LLP 2000 McKinney Avenue, Suite 1400 Dallas, TX 75201 T: (214) 932-6418 F: (214)-932-6499 shassett@mcguirewoods.com</p> <p>ATTORNEYS FOR SPRINT CORPORATION, SPRINT SOLUTIONS, INC., SPRINT SPECTRUM L.P. AND BOOST MOBILE, LLC</p>
<p><u>/s/ Rex A. Mann</u> Thomas M. Dunham D.C. Bar No. 448407 tdunham@winston.com WINSTON & STRAWN LLP 1700 K Street, N.W. Washington, D.C. 20006-3817</p>	

Tel: (202) 282-5000
Fax: (202) 282-5100

Anup K. Misra
New York Bar No. 473836
WINSTON & STRAWN LLP
200 Park Ave.
New York, NY 10166
Tel: (212) 294-7000
Fax: (212) 294-4000

Rex A. Mann
Texas Bar No. 24075509
rmann@winston.com
WINSTON & STRAWN LLP
2501 N. Harwood St., 17th Fl.
Dallas, TX 75201
Tel: (214) 453-6500
Fax: (214) 453-6400

**ATTORNEYS FOR VERIZON
COMMUNICATIONS INC. AND CELLCO
PARTNERSHIP D/B/A VERIZON
WIRELESS**

CERTIFICATE OF CONFERENCE

In accordance with Local Rule CV 7.1, the undersigned certifies that CCE and the Carrier Defendants are in agreement as to the relief sought and, therefore, jointly bring this motion. The undersigned also certifies that Defendant ZTE is unopposed.

/s/ Edward R. Nelson III

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed electronically in compliance with Local Rule CV 5.1 on this 2nd day of March, 2018. As of this date all counsel of record have consented to electronic service and are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV 5.1(d).

/s/ Edward R. Nelson III